



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Confirmation No.: 4534

Kuk Ho BAE and Kwang Chul JU

Group Art Unit: 3713

Serial No.: 09/709,574

Examiner: Julie K. BROCKETTI

Filed: November 13, 2000

Customer No.: 34610

For: GAME SERVICE SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

U.S. Patent and Trademark Office
Customer Service Window - AF
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Further to the Notice of Appeal filed herewith, Pre-Appeal Brief Request for Review of the Final Rejection issued on September 29, 2005 is respectfully requested in view of the following.

A February 15, 2006 Advisory Action indicates that the Request for Reconsideration filed on January 27, 2006 fails to place the application in condition for allowance. Therefore, the pending are claims 1-20.

It is respectfully submitted that the Examiner's rejection of claims 1-8, 14, 16, 18 and 20 over U.S. Patent No. 5,654,746 to McMullan, Jr. et al. (hereinafter "McMullan"); the rejection of claims 9-13 over McMullan in view of U.S. Patent No. 5,935,004 to Tarr et al. (hereinafter "Tarr"); the rejection of claim 15 over McMullan in view of U.S. Patent No. 6,267,672 to Vance (hereinafter "Vance"); and the rejection of claims 17 and 19 over McMullan in view of U.S. Patent No. 5,489,103 to Okamoto be reviewed in view of the clear deficiencies under 35 U.S.C.

§ 102(b) and § 103(a), i.e., McMullan, or McMullan in combination with Tarr, Vance, or Okamoto fail to disclose or suggest every claimed features. Further, the Examiner's decision to ignore functional features is improper. The Examiner must consider functional features, as mandated in MPEP § 2173.05(g), in *In Re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971), and in *In Re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976). The following are the text of the independent claims.

McMullan fails to disclose or suggest a game service receiving device comprising a tuning unit configured to receive the image and audio information of a broadcast signal, a game program ordered by a user, and game-related information, and to select either the image and audio information corresponding to a broadcast channel desired by the user, or the game program ordered by a user, as variously called for in independent claims 1 and 5. McMullan also fails to disclose or suggest a multiplexer configured to convert image and audio information of a broadcast signal, a game program, and game related information by a packet unit on a time basis into a transport stream, as variously called for in independent claims 2 and 3.

McMullan also fails to disclose or suggest converting image and audio information of a broadcast signal, a game program, and game-related information by packet unit on a time basis into a transport stream, as recited in independent claim 14. McMullan also fails to disclose or suggest extracting a game list comprising game-related information from a transport stream that includes time basis multiplexed packet units of image and audio information of a broadcast signal, a listing of game programs, and game-related information, as recited in independent claim 16. McMullan also fails to disclose or suggest a broadcast and game receiving device, comprising a downloader configured to receive a transport stream having time basis multiplexed packet units

of image and audio information of a broadcast signal of a channel, a game program, and game related information, and to download a game program ordered by a user using the game related information encoded with the image and audio information of the broadcast signal, as recited in independent claim 20.

McMullan fails to disclose or suggest a processor configured to receive an input from a user interface, and to output either a first control signal to select a broadcast signal of a channel desired by a user, or a second control signal to order a game desired by the user, and a common game interface module configured to receive the first control signal and to demodulate a broadcast signal of a channel selected by user, a game program, and game-related information, as recited in claim 9. Tarr fails to overcome the deficiencies in McMullan, as Tarr is merely cited as allegedly teaching a modem configured to receive a control signal to order a game desired by a user and output a corresponding ordering signal.

The specific arguments for these features lacking in the McMullan, and McMullan in combination with Tarr are of record in the Request for Reconsideration filed on January 27, 2006 at pages 2-8.

Consequently, the rejection of independent claims 1, 2, 3, 5, 9, 14, 16 and 20 are in error as the above noted features are not met by McMullan, or McMullan, in combination with Tarr, Vance, or Okamoto. Therefore, the features of dependent claims 4, 6-8, 10-13, 15 and 17-19 are also not met by the applied references because of the above reasons and their added features. In view of the above, withdrawal of the rejections are respectfully requested.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, **Seth S. Kim** who is acting under 37 C.F.R. § 1.34, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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